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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,379	01/09/2002	Takashi Kondo	24540-20004.00	5474

25227   7590   08/04/2006

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ART UNIT	PAPER NUMBER
2168	

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 May 2006*.

2a)☐ This action is **FINAL**.　　2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-8,11,12,15-17,20 and 22* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-8,11,12,15-17,20 and 22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some *　c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

* *Claim Objections*

Applicants' arguments with respect to the rejection of claims 7 and 22 have been fully considered and are persuasive in view of the amendment. The objection of claims 7 and 22 has been withdrawn.

* *Claim Rejections - 35 USC § 112*

Applicants' arguments with respect to the rejection of claims 1, 7, 8, 11, 12, 15 and 22, under 35 U.S.C. § 112, first paragraph, have been fully considered and are persuasive in view of the amendment. The rejection of 1, 7, 8, 11, 12, 15 and 22, under 35 U.S.C. § 112, first paragraph, has been withdrawn.

Applicants' arguments with respect to the rejection of claims 4, 5 and 11, under 35 U.S.C. § 112, second paragraph, have been fully considered and are persuasive in view of the amendment. The previous rejection of 1, 7, 8, 11, 12, 15 and 22, under 35 U.S.C. § 112, first paragraph, has been withdrawn.

* *Claim Rejections - 35 USC § 101*

Applicants' arguments with respect to the rejection of claims 1, 8, 12 and 22 under 35 U.S.C. § 101 have been fully considered and are persuasive in view of the amendment. The rejection of claims 1, 8, 12 and 22 under 35 U.S.C. § 101 has been withdrawn.

- *Claim Rejections - 35 USC § 102*

Applicants' arguments with respect to the rejection of claims 1, 3-8, 11, 12, 15-17, 19, 20 and 22 under 35 U.S.C. § 102(e) have been fully considered but they are not persuasive. The Kinjo reference disclosed the step of *receiving a name of a person* and *automatically converting the received name to a retrieval key image.*

As disclosed by Kinjo at Col. 18 Line 37-Col. 19 Line 10, a photo full of memory can be searched for by using the name of a family member as a keyword (Col. 19, Lines 6-8). The facial image of the person to be searched for and his/ her name are keyed to each other when they are transformed to accessory information and an image that complies with the given instruction can be searched for by making use of that information (Col. 19, Lines 1-6). As seen, when *a name of a person is received,* the facial image corresponding to the received name in the accessory information is referenced by the received name. The referenced facial image is then used for searching. In short, the referenced facial image is *a retrieval key image* and the technique of referencing a facial image in the accessory information for searching when using the received name indicates the step of *automatically converting the received name to a retrieval key image.*

As indicated in the Interview 05/12/06, the features as disclosed in the Specification, paragraph 0095, are suggested by examiner to add in the claim to distinguish the claim invention with the Kinjo technique, and these features were overlooked with respect to the Kinjo reference during the Interview. Therefore, this Office Action is a Non-Final Office Action.

In view of the foregoing arguments, the rejection of claims 1, 3-8, 11, 12, 15-17, 19, 20 and 22 under 35 U.S.C. § 102(e) is hereby sustained.

Duplicate Claims, Warning

Applicant is advised that should claims 11 and 12 be found allowable, claims 1, 7, 8, 15 and 22 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 3-6, 8, 12 and 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As in claim 3, the step of *designating more than one retrieval key image* was not described in the specification with respect to the technique of converting the received person name to a key face and retrieving an image that is identical to the key face as disclosed in paragraphs 0094 and 0095.

As in claim 4, the step of *extracting more than one designated facial image from said images in said image database for storage and for designating a retrieval key image form said more than one extracted designated facial image* was not described in the specification with respect to the technique of converting the received person name to a key face and retrieving an image that is identical to the key face as disclosed in paragraphs 0094 and 0095.

As in claim 5, the step of *using said designated retrieval key image to retrieve more than one image containing facial image data identical or analogous to said designated retrieval key image* was not described in the specification with respect to the technique of converting the received person name to a key face and retrieving an image that is identical to the key face as disclosed in paragraphs 0094 and 0095.

As in claim 6, the step of *designating more than one retrieval key image* was not described in the specification with respect to the technique of converting the received person name to a key face and retrieving an image that is identical to the key face as disclosed in paragraphs 0094 and 0095.

As in claim 8, the step of *extracting facial image data from said plurality of items of image data registered in said image database, automatically converting the received name to a designated retrieval key image* and *comparing said designated retrieval key image to said extracted facial image data and retrieving from said image database more than one item of image data containing facial image data identical or analogous to said retrieval key image based on said graphical comparison* were not described in the specification with respect to the technique of converting the received person name to a key face and retrieving an image that is identical to the key face as disclosed in paragraphs 0094 and 0095.

As in claims 12 and 15, the step of *automatically converting the received name to more than one* *designated retrieval key image* and *graphically comparing said more than one designated retrieval key images to* *said extracted facial image data and retrieving from said image database image data containing an image* *identical or analogous to said retrieval key image* were not described in the specification with respect to the technique of converting the received person name to a key face and retrieving an image that is identical to the key face as disclosed in paragraphs 0094 and 0095.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 7, 11, 12, 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the step of *designating a retrieval key image...* The clause *said retrieval key image* in claim 1 references to at least two "retrieval key images", one in the step of *converting the* *received name to a retrieval key image* in claim 1, and one in the step of designating in claim 4. It is unclear which one is being referenced.

Claim 7 recites the step of *converting said information to a retrieval key image...* The clause *said* *retrieval key image* in claim 7 references to at least two "retrieval key images", one in the step of *converting the received name to a retrieval key image* in claim 7, and one in the step of *converting said* *information to a retrieval key image* in claim 7. It is unclear which one is being referenced.

As in claim 11, the clause *the designated facial image data* and *said designated retrieval key image* reference to other items in the claim. It is unclear what items are being referenced by these two clauses.

As in claims 12 and 15, the clause *said retrieval key image* reference to other items in the claims. It is unclear what items are being referenced.

Claim 16 recites the claimed limitation *convert said information to a retrieval key image*. The clause *said retrieval key image* in claim 1 references to at least two "retrieval key images", one in the step of *converting the received name to a retrieval key image* in claim 1, and one in the claimed limitation *convert said information to a retrieval key image* in claim 16. It is unclear which one is being referenced.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 7, 8, 11, 12, 15-17, 20 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Kinjo [USP 6,813,395 B1].

Regarding claims 1 and 7, Kinjo teaches *an image data retrieval apparatus for retrieving desired*

image data from an image database having a plurality of images registered therein (Col. 10, Lines 34-39),

wherein at least one of the images comprises facial image data (FIG. 1, item 12). The Kinjo apparatus

comprising *a processor for executing program instructions* (*a processor* is an inherited feature of the

computer as disclosed at Col. 19, Lines 14-17) for:

   receiving a name of a person (Col. 19, Lines 6-8);

   automatically converting the received name to a retrieval key image (The facial image of the

person to be searched for and his/ her name are keyed to each other when they are

transformed to accessory information and an image that complies with the given instruction can

be searched for by making use of that information (Col. 19, Lines 1-6). As seen, when *a name of a*

person is received, the facial image corresponding to the received name in the accessory

information is referenced by the received name. The referenced facial image is then used for

searching. In short, the referenced facial image is *a retrieval key image* and the technique of

referencing a facial image in the accessory information for searching when using the received

name indicates the step of *automatically converting the received name to a retrieval key image*);

   graphically comparing said retrieval key image to at least one other image in the image database and

retrieving from said image database an image containing facial image data that is identical or analogous to said

retrieval key image based on said graphically comparison (Col. 18, Lines 37-44).

Regarding claims 8 and 22, Kinjo teaches an image data retrieval apparatus and

program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The

Kinjo apparatus comprising *a processor for executing program instructions* (*a processor* is an inherited

feature of the computer as disclosed at Col. 19, Lines 14-17) for:

   receiving a name of a person (Col. 19, Lines 6-8);.

   extracting facial image data from said plurality of items of image data registered in said image database

(Kinjo discloses images as *image data* is stored in database at Col. 10, Lines 36-39. Kinjo further

discloses a circle as in FIG. 3 as *facial image data from* facial image, mountain, building of FIG. 1

as *said plurality of items of image data* is extracted at Col. 10, Lines 45-51 and Col. 13, Lines 16-40);

 automatically converting the received name to a retrieval key image (The facial image of the

person to be searched for and his/ her name are keyed to each other when they are

transformed to accessory information and an image that complies with the given instruction can

be searched for by making use of that information (Col. 19, Lines 1-6). As seen, when *a name of a*

person is received, the facial image corresponding to the received name in the accessory

information is referenced by the received name. The referenced facial image is then used for

searching. In short, the referenced facial image is *a retrieval key image* and the technique of

referencing a facial image in the accessory information for searching when using the received

name indicates the step of *automatically converting the received name to a retrieval key image*);

 graphically comparing said designated retrieval key image to more than one item of image data and

retrieving from said image database more than one item of image data containing facial image data identical or

analogous to said retrieval key image based on said graphical comparison (Col. 13, Lines 50-65).

 Regarding claim 11, Kinjo teaches an image data retrieval apparatus and program for

retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo

program includes the steps of:

 extracting the designated facial image data from a plurality of items of image data registered in the

image database (Col. 10, Lines 45-51 and Col. 13, Lines 16-40);

 receiving a name of a person (Col. 19, Lines 6-8);

 automatically converting the received name to a retrieval key image (The facial image of the

person to be searched for and his/ her name are keyed to each other when they are

transformed to accessory information and an image that complies with the given instruction can

be searched for by making use of that information (Col. 19, Lines 1-6). As seen, when *a name of a*

person is received, the facial image corresponding to the received name in the accessory

information is referenced by the received name. The referenced facial image is then used for

searching. In short, the referenced facial image is *a retrieval key image* and the technique of

referencing a facial image in the accessory information for searching when using the received

name indicates the step of *automatically converting the received name to a retrieval key image)*;

  graphically comparing said designated retrieval key image to said extracted facial image data and

retrieving from said image database more than one item of image data that contains a facial image identical or

analogous to said retrieval key image based on said graphical comparison (Col. 13, Lines 50-65).

  Regarding claims 12 and 15, Kinjo teaches an image data retrieval apparatus and

program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The

Kinjo apparatus includes *a processor for executing program instructions* (*a processor* is an inherited

feature of the computer as disclosed at Col. 19, Lines 14-17) for:

  receiving a name of a person (Col. 19, Lines 6-8);

  extracting facial image data from said plurality of items of image data registered in said image database

(Kinjo discloses images as *image data* is stored in database at Col. 10, Lines 36-39. Kinjo further

discloses a circle as in FIG. 3 as *facial image data from* facial image, mountain, building of FIG. 1

as *said plurality of items of image data* is extracted at Col. 10, Lines 45-51 and Col. 13, Lines 16-40);

  automatically converting the received name to more than one designated retrieval key image (The

facial image of the person to be searched for and his/ her name are keyed to each other when

they are transformed to accessory information and an image that complies with the given

instruction can be searched for by making use of that information (Col. 19, Lines 1-6). If search

to be perform using reference images, user designates one or more reference images (Col. 20,

Lines 46-52). As seen, when *a name of a person is received*, the facial images corresponding to the

received name in the accessory information are referenced by the received name. The

referenced facial images are then used for searching. In short, the referenced facial image is *a retrieval key image* and the technique of designating and referencing facial images in the accessory information for searching when using the received name indicates the step of *automatically converting the received name to more than one retrieval key image*);

graphically comparing said more than one designated retrieval key images to said extracted facial image data and retrieving from said image database image data containing an image identical or analogous to said retrieval key image (Col. 13, Lines 50-65).

Regarding claim 3, Kinjo teaches all the claim subject matters as discussed above with respect to claim 1, Kinjo further discloses the step of *designating more than one said retrieval key image* (FIG. 2, Col.10, Lines 39-67).

Regarding claim 16, Kinjo teaches all of the claimed subject matter as discussed above with respect to claim 1, Kinjo further discloses

obtaining information corresponding to an image (Col. 12, Lines 40-47);

recording in a table said information and the retrieval key image, correlated with each other (TABLE 1, Col. 13);

referring to said table to convert said information to a retrieval key image (Col. 12, Line 47-Col. 13, Line 15).

Regarding claim 17, Kinjo teaches all of the claimed subject matter as discussed above with respect to claim 16, Kinjo further discloses the technique of *obtaining more than one item of information* (Col. 12, Lines 40-47).

Regarding claim 20, Kinjo teaches all of the claimed subject matter as discussed above

with respect to claim 7, Kinjo further discloses:

obtaining information corresponding to an image (Col. 12, Lines 40-47);

converting said information to a retrieval key image with reference to a table having recorded therein

said information and the retrieval key image, correlated with each other (TABLE 1, Col. 12, Line 47-Col.

13, Line 15).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)

and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinjo

[USP 6,813,395 B1].

Regarding claim 4, Kinjo teaches all the claim subject matters as discussed above with respect to claim 1, Kinjo does not explicitly discloses the step of *extracting more than one designated facial from said images in said image database for storage* and *designating a retrieval key image from said more than one extracted facial image*. However, TABLE 1 is the database that contains designated facial images (Col. 14, Lines 46-55), and if another figure contains another person, more than designated facial images are extracted as discussed in claim 1 for storing in TABLE 1, but only one retrieval key for a particular figure is designated for searching. It would have been obvious for one of ordinary skill in the art at the time the invention was made to include the step of extracting more than one designated facial image but only one retrieval key image is designated for searching in order to reuse calculated data.

Regarding claim 5, Kinjo teaches all the claim subject matters as discussed above with respect to claim 4, Kinjo further discloses the claimed *using said designated retrieval key image to retrieve more than one image containing facial image data identical or analogous to said retrieval key image* (FIG. 5, Col. 13, Lines 50-65).

Regarding claim 6, Kinjo teaches all the claim subject matters as discussed above with respect to claim 4, Kinjo further discloses the step of *designating more than one retrieval key image* (Col. 20, Lines 46-52).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q. PHAM whose telephone number is 571-272-4040. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TIM T. VO can be reached on 571-272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HUNG Q PHAM
Examiner
Art Unit 2168

August 2, 2006